

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:16-cv-00141-MR**

CYNTHIA WOMBLE JAMES,

Plaintiff,

vs.

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security,**

Defendant.

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ORDER

THIS MATTER is before the Court on the Plaintiff's Motion for Payment of Attorney Fees [Doc. 17] and the Plaintiff's Consent Motion for Fees under the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A). [Doc. 19].

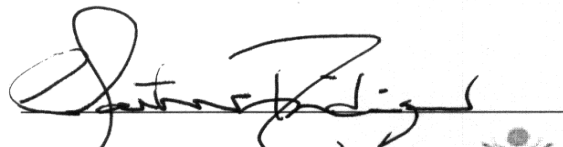
The Plaintiff seeks an award in the amount of \$3,000.00 in full satisfaction of any and all claims by the Plaintiff in this case pursuant to EAJA. [Doc. 19]. The Defendant consents to that award. [Id.]. In light of the Court's prior remand of this matter, and in the absence of any contention by the Commissioner that her position was substantially justified or that special circumstances exist that would render an award of attorney's fees unjust, the Court concludes that the Plaintiff is entitled to an award of attorney's fees under the EAJA.

IT IS, THEREFORE, ORDERED that:

- (1) The Plaintiff's Consent Motion [Doc. 19] is hereby **GRANTED**, and the Plaintiff is hereby awarded attorney's fees in the amount of Three Thousand Dollars (\$3,000.00), which sum is in full satisfaction of any and all claims by the Plaintiff in this case pursuant to 28 U.S.C. § 2412(d);
- (2) In the event that past-due benefits are awarded on remand, the Plaintiff shall have sixty (60) days after being served with notice of the past-due benefits award to file for an award of fees pursuant to the Social Security Act, 42 U.S.C. § 406(b);
- (3) In light of the filing of the Plaintiff's Consent Motion, the Plaintiff's Motion for Payment of Attorney Fees [Doc. 17] is **DENIED AS MOOT**; and
- (3) No additional Petition pursuant to 28 U.S.C. § 2412(d) may be filed.

IT IS SO ORDERED.

Signed: March 1, 2017


Martin Reidinger
United States District Judge

